

REMARKS

These remarks are in response to the Office Action dated July 30, 2009. Claims 12, 14-18 and 22-25 are pending in the application.

Claims 12, 14-18 and 25 are rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Pat. No. 5,630,829 (“Lauterjung”) in view of U.S. Pat. No. 4,830,003 (“Wolff”).

Claim 22 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Wolff, and further in view of U.S. Pat. No. 5,397,355 (“Marin”).

Claim 23 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Wolff and Marin, and further in view of U.S. Pat. No. 6,221,102 (“Baker”).

Claim 24 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Wolff, and further in view of U.S. Pat. No. 5,282,824 (“Gianturco”).

Reconsideration of the application is respectfully requested in light of the following remarks.

I. REJECTIONS UNDER 35 U.S.C. § 103(a)

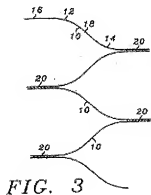
A. Independent Claims 12 and 25

The Examiner has rejected independent claims 12 and 25 under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Wolff. Applicant respectfully traverses these rejections.

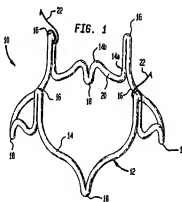
As explained to Examiner Woo in the March 30, 2009 interview, Lauterjung teaches away from applicant’s invention by showing substantially different cusps pointing in different axial directions. As an example, Lauterjung teaches that the cusps 16 pointing in one axial direction are longer than the cusps 18 pointing in the opposite axial direction. Moreover, the cusps 16 and 18 are oriented at different angles, and there is also greater contact between adjacent cusps 16 relative to the adjacent cusps 18. Thus, for several reasons, the segments at each end of Lauterjung’s limbs are not substantially identical to one another.

The Examiner now concedes that “Lauterjung does not disclose that the short, straight segments at each end of the limb are substantially identical to one another.” (Office Action dated July 30, 2009 at page 3). However, the Office Action suggests that:

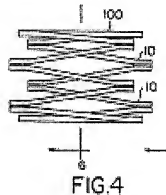
“it would have been obvious to one having ordinary skill... in view of Wolff... to modify the limbs of Lauterjung, so that the short, straight segments at each end are substantially identical to each other. Such a modification would allow the stent of Lauterjung to expand into a tubular shape with uniform spacing between segments and/or limbs, while allowing the stent to exert a given, radially-outward force along the entire length of the stent without undue traumatization of a vessel wall.” (*Id.* at pages 3-4).



Applicant's FIG. 3



Lauterjung's FIG. 1



Wolff's FIG. 4

Applicant respectfully traverses this 35 U.S.C. § 103(a) rejection, as Lauterjung resoundingly teaches away from Wolff. In at least 10 passages of the patent, Lauterjung repeatedly stresses elongated members that curve in two opposite directions, “each said member being curved over substantially its entire extent.” (see, e.g., Lauterjung Abstract; col. 2, lines 31-35 and 42-43; col. 3, lines 25-26; col. 4, lines 7-9; col. 5, line 48 – col. 6, line 6; col. 6, lines 19-20; col. 9, lines 10-15 and 49-51; claims 1 and 21). Importantly, Lauterjung stresses that “[i]n accordance with the present invention, the hoop strength of a stent has now been significantly increased by replacing the straight legs with legs which are smoothly curved along substantially their entire length and which therefore contribute to the overall hoop strength of the stent.” (See Lauterjung at col. 2, lines 30-35; emphasis added).

Given that Lauterjung stresses the importance of “replacing the straight legs with legs which are smoothly curved along substantially their entire length,” Lauterjung expressly teaches away from a combination with a reference such as Wolff, which depicts straight legs.

Furthermore, there is no motivation to modify the cusps of Lauterjung with any other reference besides Wolff. For example, Lauterjung expressly states “[i]n preferred embodiments, the cusps point in opposed axial directions, the cusps pointing in one axial direction having an axial length which is greater than the cusps pointing in the other axial direction.” (see Lauterjung at col. 2, lines 45-50). One of ordinary skill in the art therefore would not modify the preferred cusps of Lauterjung with any reference in a manner that could adversely impact the hoop strength of the stent. As acknowledged by Lauterjung, stents having “straight legs” (such as Wolff) are claimed to have a lower hoop strength, and therefore one of ordinary skill in the art would not make such a modification. (See Lauterjung at col. 2, lines 30-35).

Therefore, it is believed that the Examiner’s assertion above, regarding one of ordinary skill in the art making a modification to Lauterjung’s stent, is unfounded since Lauterjung repeatedly teaches the advantages of its particular structure over stents such as Wolff’s stent.

By contrast, applicant’s stent of independent claims 12 and 25 provides a limb structure that is distinguishable over both Lauterjung and Wolff, both individually and in combination. Moreover, applicant’s stent of independent claims 12 and 25 has clinical advantages, previously noted in the prosecution of this application, which are neither taught nor suggest by Lauterjung nor Wolff. (see, e.g., applicant’s specification at page 18; FIGS. 1-5 and 8-10).

For at least the reasons set forth above, the combination of Lauterjung and Wolff do not render obvious applicant’s independent claims 12 and 25. Accordingly, applicant respectfully requests the withdrawal of the 35 U.S.C. § 102(e) rejection based on Lauterjung in view of Wolff.

B. Independent Claims 22-24

The Examiner has rejected independent claim 22 under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Wolff and further in view of Marin, independent claim 23 under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Wolff, Marin and further in view of Baker, and independent claim 24 under 35 U.S.C. § 103(a) as being unpatentable over Lauterjung in view of Wolff and further in view of Gianturco.

As noted in detail above, Lauterjung and Wolff do not teach or suggest, whether alone or in combination, applicant's stent of independent claims 12 and 25. Neither Marin, Baker nor Gianturco make up for Lauterjung's and Wolff's deficiencies, as explained above.

For at least this reason, applicant respectfully requests the withdrawal of the 35 U.S.C. § 103(a) rejections to independent claims 22-24.

II. REJECTIONS TO DEPENDENT CLAIMS 14-18

Since dependent claims 14-18 depend from independent claim 12, they are allowable for at least the reasons set forth above. Therefore, applicant respectfully requests that the rejections to claims 14-18 be withdrawn.

CONCLUSION

Each of the rejections in the Office Action dated July 30, 2009 has been addressed and no new matter has been added. Applicant submits that all of pending claims 12, 14-18 and 22-25 are in condition for allowance and notice to this effect is respectfully requested. The Examiner is invited to contact the undersigned attorney if such communication would expedite the prosecution of this application.

Respectfully submitted,



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